

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ELLEN MACK,

Plaintiff,

-against-

REPORT AND
RECOMMENDATION
16 CV 3986 (ARR)

NO PARKING TODAY, INC., ET AL.,

Defendants.

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POLLAK, United States Magistrate Judge:

The Court assumes familiarity with this case.¹

On February 28, 2018, an Inquest Hearing was held on plaintiffs' motion for default judgment, which was referred to the undersigned by the Honorable Allyne R. Ross to issue a Report and Recommendation as to liability and damages.

At the Inquest Hearing, plaintiffs Mack and Ross appeared, and defendants failed to appear. Ms. Mack and Mr. Ross testified as to their hours worked and wages paid. However, their testimony as to their hours worked and wages paid varied from the plaintiffs' papers, which had been previously submitted in connection with this motion.² Plaintiffs' counsel, accordingly, requested the opportunity to submit new papers with revised affidavits from the plaintiffs.

In light of the above, the Court respectfully recommends denying plaintiffs' initial motion for default judgment, filed on May 29, 2017, without prejudice to renew the motion with the correct numbers. Plaintiffs' affidavits shall include (1) the number of hours worked, per week, for which

¹For background, see the following Orders issued by this Court: Order dated December 19, 2017; January 26, 2018; February 7, 2018.



²For example, while plaintiff Ross's affidavit states that he worked 84 hours per week, Mr. Ross testified that he worked approximately 50 hours per week. See Affidavit of Graham Ross, affixed to plaintiff's Motion for Default Judgment, dated May 26, 2017.

the plaintiffs were paid at their straight rate of \$12/hour; (2) the number of hours worked, per week, for which the plaintiffs received \$15 “overtime” pay; (3) and the number of hours worked, per week, for which the plaintiffs did not receive any pay.

Any objections to this Report and Recommendation must be filed with the Clerk of the Court, with a copy to the undersigned, within fourteen (14) days of receipt of this Report. Failure to file objections within the specified time waives the right to appeal the District Court’s Order. See 28 U.S.C. Section 636(b)(1); Fed. R. Civ. P. 6(a), 6(d), 72; Caidor v. Onondaga Cty., 517 F.3d 601, 604 (2d Cir. 2008).

SO ORDERED.

Dated: Brooklyn, New York
March 1, 2018

 /s/ Cheryl Pollak 

Cheryl L. Pollak
United States Magistrate Judge
Eastern District of New York